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8 *Attorneys for Defendant Nevada Resort Association -
IATSE Retirement Local 720 Pension Plan*

9
10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 DAWN WOLGAST, an individual,

CASE NO.:

13 Plaintiff,

14
15 **PETITION FOR REMOVAL**

v.

16 THEATRICAL STAGE EMPLOYEES LOCAL 720
17 PENSION PLAN

Defendant.

18 Defendant Nevada Resort Association - IATSE Retirement Local 720 Pension Plan (the
19 “Plan”) (incorrectly named as the Theatrical Stage Employees Local 720 Pension Plan)
20 respectfully submits this Notice of Removal of the above-entitled action from the Justice Court of
21 Clark County, Nevada to the United States District Court for the District of Nevada, pursuant to
22 28 U.S.C. §§ 1331, 1441(a), 1446 and 29 U.S.C. § 1132(e) and states as follows:

23 1. On December 28, 2018, Plaintiff Dawn Wolgast (“Wolgast”), filed a Small Claims
24 Complaint against the Plan in the Justice Court, Clark County, Nevada, entitled *Wolgast v.*
25 *Theatrical Stage Employees Local 720 Pension Plan*, Case No. 18A004252, to adjudicate the
26 payment of pension benefits to Wolgast as a beneficiary of her mother, Gwendolyn Wolgast, a
27 participant in the Plan.

1 2. On January 4, 2018, a third party administrator for the Plan, Zenith American
2 Solutions (“Zenith”), received the Summons and Complaint on behalf of the Plan in the above
3 entitled action. A true copy of the Summons and Complaint are attached as Exhibit A.

4 3. The Plan is an employee welfare benefit plan as defined under the Employee
5 Retirement Income Security Act of 1974, as codified at 29 U.S.C. § 1001, et seq. (“ERISA”).

6 4. Removal of this case is proper because Congress has given exclusive jurisdiction
7 to Federal Courts to enforce the terms of an ERISA Plan. ERISA § 502(e), as codified at 29
8 U.S.C. § 1132(e)(1) provides:

9 [T]he district courts of the United States shall have exclusive
10 jurisdiction of civil actions under this subchapter brought by the
11 Secretary or by a participant, beneficiary, fiduciary, or any person
12 referred to in section 1021(f)(1) of this title.

13 5. ERISA § 502(f), as codified at 29 U.S.C. § 1132(f) provides:

14 The district courts of the United States have jurisdiction, without
15 respect to the amount in controversy or the citizenship of the parties, to
16 grant the relief provided for in subsection (a) of this section in any
17 action.

18 6. All pleadings and papers that were filed and served on Zenith have been attached
19 to this Petition for Removal in accordance with 28 U.S.C. § 1446(a).

20 7. This Petition for Removal is filed with the District Court within thirty (30) days
21 after service of the Complaint on the Plan.

22 8. The undersigned attorney certifies that he has caused a copy of the original
23 Petition for Removal to be filed with the Clerk of the Clark County Justice Court, Las Vegas
24 Township, in the State of Nevada.

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1 WHEREFORE, the Plan respectfully requests this Court to assume jurisdiction over the
2 case herein, as provided by law.

3 Dated this 14th day of January, 2019. BROWNSTEIN HYATT FARBER SCHRECK, LLP

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5 By: /s/ Christopher M. Humes

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Attorneys for Defendant Nevada Resort Association
- IATSE Retirement Local 720 Pension Plan

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP and that on January 11, 2019, I served a true copy of the foregoing **PETITION FOR REMOVAL** via:

- a. **CM/ECF System**
 - b. **U.S. Mail** in a sealed envelope(s) mailed with postage thereon fully prepaid upon:

Dawn Wolgast
5573 Golden Palms Court
Las Vegas, Nevada 89148

Plaintiff Dawn Wolgast

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Ebony Davis
An Employee of Brownstein Hyatt Farber Schreck, LLP